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LETTER DATED 2 OCTOBER 1995 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Upon instructions from my Government, I should like to draw your attention to documents S/1995/831, S/1995/832 and S/1995/833, containing letters dated 28 September 1995, 28 September 1995, and 27 September 1995, respectively, signed "Vladislav Jovanović, Ambassador, Chargé d'affaires a.i." of the "Permanent Mission of Yugoslavia to the United Nations".

1. My Government wishes to reiterate its objection to the publication of the above letters as documents of the United Nations, as stated previously on the occasion of the publication of letters signed by Mr. Bratislav Djordjević (A/50/333-S/1995/659). Mr. Jovanović does not represent a Member State of the United Nations and thus has no authority to request publication of documents.

The designation of "Yugoslavia" as a State within the framework of the United Nations is related to the former Socialist Federal Republic of Yugoslavia (SFRY), a State whose process of dissolution into five successor States was initiated on 8 October 1991, and terminated on 29 April 1992. The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia and the Republic of Slovenia are all equal successors to the former Socialist Federal Republic of Yugoslavia, along with the remaining Republics of Serbia and Montenegro, which have formed a federal State that they call the Federal Republic of Yugoslavia.

The relevant resolutions of the Security Council (777 (1992) and 821 (1993)) and of the General Assembly (47/1) of 19 September 1992, have stated clearly and unequivocally that the "State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist", that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia" and that "the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership of the United Nations". Since the "Federal Republic of Yugoslavia (Serbia and Montenegro)" has not yet applied for membership in the Organization, it can only be concluded that it is not a Member State.

We wish to recall that Mr. Dragomir Djokić, the previous "Chargé d'affaires of the Permanent Mission of Yugoslavia to the United Nations", was appointed by the then Acting Federal Secretary for Foreign Affairs of the Socialist Federal Republic of Yugoslavia, Mr. Milivoje Maksić, on 31 March 1992 - during the period while the process of dissolution of the former common State was still going on.

Although the former Socialist Federal Republic of Yugoslavia has ceased to exist, it has been allowed to continue to perform some of the functions of a United Nations Member State and its old flag still flies the mast at the United Nations. In view of this situation, until Serbia and Montenegro are admitted into membership of the United Nations, Mr. Djokić was being allowed to act as a representative of "Yugoslavia" within the United Nations system, since he was appointed at a time when the Socialist Federal Republic of Yugoslavia still existed as a State, by a then legitimate representative of that State. However, Mr. Jovanović cannot be considered a representative of any "Yugoslavia", since he was appointed by the Minister for Foreign Affairs of a country that is not a Member State of the United Nations.

2. Further, the letter dated 28 September 1995 (S/1995/831) implies that the Republic of Croatia is not abiding by the Security Council resolution 752 (1992). The letter quotes the demand contained in that resolution that "all troops from outside Bosnia and Herzegovina be withdrawn from Bosnia and Herzegovina". However, the resolution is quoted inaccurately, since it states, in its paragraph 4, that it "demands that those units of the Yugoslav People's Army and elements of the Croatian Army now in Bosnia and Herzegovina must either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring".

As stated in the statement of my Foreign Minister (S/1995/812, annex), elements of the Croatian Army are present in the Republic of Bosnia and Herzegovina, but are subject to a bilateral treaty between the two Governments. Thus they are subject to the authority of the Government of the Republic/ Federation of Bosnia and Herzegovina. Therefore, the requirements of resolution 752 (1992) are fulfilled.

My Government welcomes the statement from the letter stating that "the 'Federal Republic of Yugoslavia (Serbia and Montenegro)' was only constituted a year after" the conflict began, thus clearly confirming that this new "Yugoslavia" is in earnest a new international legal entity, notwithstanding the fact that it is one of the five successor States to the former common State, the Socialist Federal Republic of Yugoslavia. This clarification should facilitate the conclusion of the negotiations on the succession issue.

3. With regard to the letter dated 28 September 1995 (S/1995/832), claiming that the Croatian Army has attacked the territory of the "Federal Republic of Yugoslavia (Serbia and Montenegro)", by opening fire from the location of Cesmina Glava towards the positions of the "Army of Yugoslavia" at the location of Prasna Rupa, I would like to recall the Croatian position set forth in the letter dated 6 September 1995 (S/1995/770) and the map enclosed in that letter, from which it is visible that the location in question - claimed to be inside

the territory of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" - is actually located approximately 1,100 metres inside the territory of the Republic of Bosnia and Herzegovina. This once again confirms that the authorities of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" lay claim to the territory of other Member States. It further confirms that regular units of the "Army of Yugoslavia" are present on the territory of the Republic of Bosnia and Herzegovina, in clear violation of both Security Council resolution 752 (1992) and resolutions 943 (1994), 970 (1995), 988 (1995) and 1015 (1995).

4. With regard to the letter dated 27 September 1995 (S/1995/833), I would like to reiterate the statement made by my Foreign Minister on 20 September 1995 (S/1995/812, annex) with regard to the joint Croatian-Bosnian military operations in the western part of the Republic of Bosnia and Herzegovina.

I would kindly request your assistance in circulating the present letter as a document of the Security Council.

(Signed) Mario NOBILO
Ambassador
Permanent Representative